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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,880	03/23/2004	David A. Goldman	20060/10001D	3874
34431 7590 04/30/2008 HANLEY, FLIGHT & ZIMMERMAN, LLC 150 S. WACKER DRIVE SUITE 2100 CHICAGO, IL 60606				
EXAMINER DURHAM, NATHANE				
ART UNIT		PAPER NUMBER		
3765				
MAIL DATE		DELIVERY MODE		
04/30/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/806,880

**Applicant(s)**

GOLDMAN, DAVID A.

**Examiner**

NATHAN E. DURHAM

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's amendment and corresponding arguments, filed 25 June 2007, have been reviewed and considered. Claims 1, 8 and 15 have been amended and claims 22-24 have been added. Therefore, claims 1-24 are currently pending. The applicant's amendment is not considered sufficient in overcoming the KOTAKI reference as used in the rejection of the previous Office Action. The applicant's corresponding arguments will be addressed within the rejection below. This Office Action is considered a Final Rejection.

### ***Specification***

The disclosure is objected to because of the following informalities: The disclosure is objected for containing typographical errors. For example, note page 54, in line 3 of paragraph [00143]. Here "Stoke" must be changed to --Stroke--. Applicant should review the entire specification to correct this and other such errors.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-24 are rejected under 35 U.S.C. 102(e) as being anticipated by KOTAKI (U.S. Patent 6,010,238).

Regarding claim 1, KOTAKI discloses a method of generating embroidery data from image data comprising automatically identifying a singular region (P1) (Fig. 4B) from a plurality of regions associated with the image data (using branch and end points search unit 44) (Col. 8, Lines 44-52). KOTAKI discloses generating occluded boundary information (closures A1, A2, A3) (using closure generator 46) associated with the singular region (P1) wherein the occluded boundary information represents a joining of at least two regular regions (P1-AD and P1-AF; P1-AD and P1-AE; P1-AE and P1-AF) associated with the singular region (P1) (Col. 8, Lines 44-52) (Fig. 4C). Note that KOTAKI combines the dividing lines (i.e. regular regions) with the outline (U) to generate each of the closures (i.e. occluded boundary information). KOTAKI discloses generating embroidery data based on the occluded boundary information (Col. 8, Line 66 – Col. 9, Line 15) (Figures 4D and 4E).

Regarding claims 2-7, KOTAKI discloses the singular region (P1) being identified as being associated with at least one of a convergence and a termination of at least one of the plurality of regions (Col. 7, Lines 4-41) (Col. 8, Lines 44-52) (Fig. 4B). KOTAKI further discloses the singular region (P1) being identified as being associated with a convergence of edges associated with the image data (Note the shape of A as shown in

4A and 4B). KOTAKI discloses wherein automatically identifying the singular region includes analyzing skeletal data (MA, M) (Fig 4B) (Col. 7, Lines 4-41) (Col. 8, Lines 44-52) wherein the skeletal data is generated using a distance transform algorithm that processes edge contour data (Col. 6, Lines 57-60). KOTAKI discloses the image data associated with a scanned image (Col. 6, Lines 45-53) (Col. 8, Lines 38-39). It is well known to one having ordinary skill in the art that image data stored in electronic memory is represented in a variety of standard formats including .bmp (viz. bitmap) files.

Claims 8-21 are also rejected under 35 U.S.C. 102(e) by KOTAKI for the same reasons as discussed above. In regards to claims 8 and 15, note the electronic memory 16 and the control diagram as shown in figure 1.

Regarding claims 22-24, KOTAKI discloses the embroidery data generation based on the occluded boundary information further comprising generating the embroidery data using energy minimization information (embroidery orientation as generated by the orientation determiner 48) (Col. 8, Line 66 – Col. 9, Line 10) (Fig. 4C). Any further defining process used within the embroidery data generation process is considered energy minimizing in order to allow the embroidery data to be created easier and faster.

### ***Conclusion***

The prior art made of record, as cited on attached PTO-892, and not relied upon is considered pertinent to applicant's disclosure.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **NATHAN E. DURHAM** whose telephone number is (571)272-8642. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary L. Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NED

/Gary L. Welch/  
Supervisory Patent Examiner, Art Unit 3765